

QUALIFIED HEALTH CLAIM PETITION

**100% WHEY PROTEIN PARTIALLY HYDROLYZED
in Infant Formula and
REDUCING THE RISK OF ALLERGY IN INFANTS**

MODEL QUALIFIED HEALTH CLAIM

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PROPOSED MESSAGE

For years Nestlé has systematically tracked, evaluated and, on occasion, sponsored clinical investigations regarding the association between infants' consumption of 100% Whey-Protein Partially Hydrolyzed formulas and a corresponding reduction in their incidence of atopic diseases. Independent experts, at Nestlé's request, have evaluated the published reports of these investigations, and the resulting consensus is that the association at issue is real and should be communicated to parents and the medical community. That the time is ripe for such information to be shared is illustrated by the increasing incidence and prevalence of allergic disease over the last decades, particularly in developed countries such as the United States.

The growing body of scientific evidence in support of 100% Whey-Protein Partially Hydrolyzed formulas (PHF-W) and the prevention of allergic disease is significant for the general population in light of the increasingly recognized probability that in standard clinical practice the total number of healthy infants who eventually manifest food allergy – but are *not identified* as “high-risk” – is actually far greater than the total number of healthy infants normally *identified* as “high-risk.” As explained in more detail in Section C: Summary of Scientific Data, this is due to the combined effects of the following:

- About half of the infants who develop allergic disease do not have a family history of the disease;
- Even when there is a family history of allergy, there is currently no accepted, standardized, or validated screening method in place to capture that information and to identify such infants.

The scientific evidence summarized in this petition provides a basis for messages that will truthfully and meaningfully inform parents and caregivers about the benefits of PHF-W in reducing the risk of allergy. Obviously, any claim in this area must be carefully worded so that it accurately reflects the current state of scientific knowledge but also serves as an intelligible message to consumers. Nestlé believes the following claim meets these criteria:

Breastfeeding is the best way to nourish infants. For infants who are not exclusively breastfed, emerging clinical research in healthy infants with family history of allergy shows that feeding a 100% Whey-Protein Partially Hydrolyzed formula may reduce the risk of common food allergy symptoms, particularly allergic skin rash, when used instead of whole-protein cow's-milk formula from the initiation of formula feeding.

Partially hydrolyzed formulas are not intended to treat existing food allergy symptoms. If you suspect your baby is already allergic to milk, or if your baby is on a special formula for the treatment of allergy, your baby's care should be under a doctor's supervision.

CONSUMER RESEARCH

The first sentence of this language sets the stage by reminding the reader that breastfeeding is the preferred method of feeding an infant. Nothing about this claim is intended to dissuade mothers from nursing their infants. The remainder of the first paragraph – directed to those whose infants are *not* exclusively breastfed – constitutes the body of the claim, and in itself is truthful, well supported, and not misleading.

The second paragraph adds an extra level of protection against any potential for confusion as to whether such a formula should be used for *treatment* of allergic signs and symptoms, or solely for the purpose of *reducing the risk*. This “disclaimer” clearly instructs the consumer not to use the product in infants with diagnosed cow's milk allergy.

Nestlé feels it is important to add this extra protection against potential misuse, even though the agency has acknowledged, since the 1989 launch of “Good Start HA”, that a PHF-W is indeed a *less allergenic* alternative to standard cow’s milk formulas.

In spite of their reduced allergenicity, PHF-W are not intended for therapeutic use. Consequently, the ingredient list should continue to function as an additional source of clarification as to the proper use of PHF-W, by indicating that the main ingredient is derived from cow’s milk. This method of ingredient listing is in accordance with the longstanding practice of Nestlé USA, as well as in compliance with the new Food Allergen Labeling and Consumer Protection Act.

Although Nestlé has not directly tested this specific claim language with consumers, preliminary consumer testing of two earlier iterations of the claim did provide relevant insights that were useful in crafting the language now being proposed. Both of the early versions of the claim were in a consumer-friendly ad-like format. The first version tested was as follows:

Up to one in ten babies on a routine formula could develop food allergies that cause symptoms such as colic, fussiness, or skin rash. Yet, doctors do not have a good way to predict whether your baby will be one of those that develops food allergy. Nestlé Good Start Supreme is made with special proteins and is the only routine formula shown to help protect healthy babies from developing common food allergy.

This language was read over the telephone to 100 mothers of infants under 12 months of age, all of whom were using or planning to use standard intact cow’s milk formulas. Then these consumers were asked what information they thought the language conveyed. 88% of the respondents said this statement said or implied *protection* or *prevention* from getting food allergies or symptoms (such as colic, fussiness and rashes).

No respondents said it suggested this formula should be used for *treatment* of allergic symptoms, although some did seem to interpret the language as saying the formula would be a less allergenic alternative to standard intact formulas. Nevertheless – even under circumstances where misunderstanding might be considered likely, and even without a specific disclaimer as to therapeutic use – consumers consistently found this language to convey the intended use as a preventive step against allergy, and did not misunderstand it as recommending therapeutic use.

The second version was tested to determine whether mothers (screened on the same criteria as the previous study) could distinguish between FDA-recommended model Qualified Health Claim language¹ and Nestlé’s preferred alternative language, with regard to the amount of scientific certainty conveyed by the claim. 400 subjects saw two different messages (200 subjects viewing each separate message) in this “web-based survey”. The claims tested were as follows:

Claim I: FDA-recommended language

Up to one in ten babies on a routine formula could develop food allergies that cause symptoms such as colic, fussiness, or skin rash. Yet, doctors do not have a good way to predict whether your baby will be one of those who develops food allergy. Good Start Supreme is the only routine formula made with Comfort Proteins® (100% whey, partially hydrolyzed) for which there is **preliminary but supportive evidence that it may** reduce the risk of healthy babies developing common food allergy.

Claim II: Alternative language

Up to one in ten babies on a routine formula could develop food allergies that cause symptoms such as colic, fussiness, or skin rash. Yet, doctors do not have a good way to predict whether your baby will be one of those who develops food allergy. Good Start Supreme is the only routine formula made with Comfort Proteins®

¹ Specifically, the “B-level” model language proposed in FDA’s July 10, 2003 Guidance on “Interim Procedures for Qualified Health Claims.”

(100% whey, partially hydrolyzed) and **shown in emerging science to help** reduce the risk of healthy babies developing common food allergy.²

Respondents were asked to rate the message they saw on a scale of 1 to 5 (1 meaning “very uncertain”; 5 meaning “very certain”) to indicate the level of scientific certainty they felt was conveyed by the claim language. The results were nearly identical mean ratings for the two claims (3.23 for Claim I and 3.27 for Claim II); the difference between them is not statistically significant. The slight preference for the “emerging science” terminology was Nestlé’s basis for using this terminology in its proposed claim.

EXPERT CONSENSUS

After honing the claim statement with consumer testing, Nestlé sought input from several medical experts, in order to finalize the wording now being proposed – wording that, as discussed in Section C: Summary of Scientific Data, is aligned with the evolving position of the American Academy of Pediatrics on hypoallergenic formulas. The elements of a claim that these physicians believed essential, based on their medical knowledge and their experience with parents, were as follows:

- that breastfeeding is optimal
- that most of the research was done in healthy infants with family history of allergy
- that the research tested 100% Whey-Protein Partially Hydrolyzed formula
- that the control was standard intact (whole-protein) cow’s milk formula
- that both formulas were given (exclusively, or as supplement to breastfeeding) from the initiation of formula feeding
- that the symptoms for which risk was reduced were those of common food allergy, particularly atopic dermatitis (allergic skin rash)
- that partially hydrolyzed formulas are not intended to treat existing allergy symptoms

² Emphasis (bold type) within these two claim statements is added here only, and not in statements shown to respondents.

The resulting claim, it was always understood, has the potential to result in an increased consumption of PHF-W formulas at the expense of the standard intact cow's milk formulas making up the vast majority of formulas consumed today. Nestlé believes such an outcome is wholly appropriate and desirable in light of the existing and developing scientific evidence, as well as the long history of safe use of its own PHF-W as a routine infant formula. Because of this potentially major impact of the proposed claim, Nestlé made sure that a number of the medical experts it consulted were among those who might be looked to for infant feeding recommendations. The Company asked these experts whether the proposed message to the lay public would accurately reflect the body of science regarding PHF-W and the prevention of allergy, so that any change in consumption patterns that might result would be scientifically justified. The language of the claim has evolved somewhat since their review, both to eliminate the use of the awkward footnotes and to add a clear statement on the preferrability of breastfeeding; nevertheless, the letters enclosed at Appendix E-I clearly illustrate the opinions of the following experts as to the propriety of this model claim language:

William J. Cochran, M.D., F.A.A.P.
Vice Chairman, Department of Pediatrics
Department of Pediatric GI & Nutrition, Geisinger Clinic

Benjamin D. Gold, M.D.
Associate Professor of Pediatrics and Microbiology
Director, Division of Pediatric Gastroenterology and Nutrition
Department of Pediatrics, Emory School of Medicine

John Kerner, M.D.
Professor, Department of Pediatrics
Pediatric Gastroenterology, Stanford University Medical Center

William J. Klish, M.D.
Department of Pediatrics, Section of Gastroenterology
Texas Children's Hospital, Baylor College of Medicine

Ricardo Sorensen, M.D.
Department of Pediatrics
Louisiana State University Medical Center

The Curricula Vitae of these experts are enclosed under Appendix E-II.

It must be noted that these letters express the view that the proposed claim would be accurate even without the qualifying phrase regarding “emerging science”. Thus, these expert opinions would actually support a petition for a “Significant Scientific Agreement” Health Claim under NLEA. The entire body of data is indeed consistently supportive of the claim, including the unquestionably independent confirmation by the GINI study of years of previous research. The weight of this evidence, as discussed in Section C: Summary of Scientific Data, is further reflected in several corroborative meta-analyses and other review papers. The Company believes this evidence comes as close as possible, given the limitations inherent to allergy studies in infants, to establishing a basis for the Significant Scientific Agreement standard required of an *unqualified* health claim.

Nestlé recognizes, however, the time-dependant, evolutionary character of allergy investigation and of scientific consensus, as well as the novelty and importance of a health claim associated with infant formula. Under these circumstances, in order to be consistent with the overall conservatism of the pediatric community – so justifiable in light of the precious and often vulnerable patients they protect – Nestlé is taking the more conservative approach in requesting agency review for the highest possible level of *qualified* health claim instead, and waiving review under the Significant Scientific Agreement standard. Nestlé believes a qualified health claim is in the public interest, will provide meaningful, scientifically sound and truly helpful information to caregivers and physicians, and will foster scientific interest and further research in this important arena.

APPENDICES